

Decision **DRAFT DECISION OF ALJ ROSENTHAL** (Mailed 3/26/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Examine Whether
the Regulations Regarding Prearrangement of
Charter-Party Transportation Contained in
General Order 157-C Should Be Revised.

Rulemaking 02-08-002
(Filed August 8, 2002)

ORDER DISMISSING PROCEEDINGS

Summary

A rulemaking proceeding concerning revision of General Order 157-C is dismissed.

Background

By order dated August 28, 2002 the Commission issued an Order Instituting Rulemaking (OIR) to determine whether regulations regarding prearrangement of charter-party transportation should be revised. Copies of this order were distributed to approximately 3400 carriers, associations, and governmental entities. Parties were given 45 days to respond to the OIR.

Attached to the order was a draft revision of General Order (G.O.) 157-C. This draft revision proposed a refinement of "prearranged basis," as used in G.O. 157-C to implement Pub. Util. Code § 5360.5(b) to permit electronic arrangements. It specifically prohibits solicitation of passengers not previously arranged. It also proposes that a waybill shall be in the possession of the driver prior to picking up a passenger and that the waybill must be shown to any peace officer.

As stated in the order instituting rulemaking, the Commission has received complaints from taxi operators and regulators about a growing number of charter-party carriers misusing their Commission-issued licenses by providing service on such short notice as to nullify any real prearrangement and operating without waybills to show proof of prearrangement.

Responses to the OIR

The Commission has received 17 responses to the OIR.¹ San Francisco International Airport (SFO) asked that nothing from this OIR interfere with its regulatory role. Eight responses were identical filings from various charter-party carriers serving SFO complaining about the Taxi Detail of the San Francisco Police Department. A taxi association suggested that there be full regulation of the charter-party carriers, including filed rates, fines for violators, increased entry fees, and enforcement by peace officers. Two carriers objected to the general idea of peace officers as enforcers of our regulations. Another wanted cities to be able to impose fines on violators. Another said that the basic problem that exists in the industry is the restriction imposed by Los Angeles International Airport on carriers that may serve the airport. Of those who wanted a clearer definition of “prearranged,” one respondent suggested that we require the prearrangement be at least 30 minutes prior to pickup and another proposed six hours. LADOT wanted a 6 hour prearrangement minimum, stricter enforcement and penalties by the Commission, a one year moratorium on new applications or a limitation

¹ A late-filed response from an individual practitioner before the Commission is accepted, as is a late-filed response from the Taxicab Regulation Division of the Los Angeles Department of Transportation (LADOT).

We also received a request from Valley Transportation, dated November 14, 2002, seeking permission to submit late-filed comments. In view of our determination to dismiss this proceeding, this request is denied.

of applicants to those with at least 10 vehicles, denial of a license to any applicant who would be denied a Los Angeles taxi license, and enforcement by Los Angeles Transportation Investigators.

Conclusion

We note that there appears to be a decided lack of interest in this proceeding. Even among the 17 respondents the majority of comments pertained to activities not related to the proposed revision attached to the OIR. They related to complaints about present police activities, lack of enforcement of existing rules, proposals for changes in statutes, or other comments on matters not within the scope of this OIR. Even these comments were conflicting.

The one comment that deserves attention is a complaint that limousine and town car operators are advertising their services as taxicabs. This is a matter that should be considered when we next revisit this General Order. We conclude that the time is not ripe for any change in G.O. 157-C.

Categorization

The OIR preliminarily categorized this as a quasi-legislative proceeding. It preliminarily determined that an evidentiary hearing would not be necessary. We affirm these preliminary determinations. The OIR suffices for the scoping memo.

Comments on Draft Decision

The draft decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. United Taxicab Workers filed comments stressing angry confrontations between taxicab and limousine operators. They ask for a better definition of “prearranged” in G.O. 157-C and better enforcement by this Commission. The San Francisco Taxi Commission also filed comments suggesting a definition of “prearranged,” and asks that the Commission actively

“engage in enforcement of the more restrictive definition.” We suggest that these commentators discuss their concerns with G.O. 157-C with similar groups throughout the State and agree on a solution between themselves that could then be presented to the Commission. The wide diversity in views and the minimal responses to our OIR make revision of G.O. 157-C inappropriate at this time.

Assignment of Proceeding

Susan Kennedy is the Assigned Commissioner and Sheldon Rosenthal is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission issued this OIR on August 8, 2002 inviting comments within 45 days.
2. The OIR was mailed to over 3,400 recipients, including charter-party carriers, taxicab organizations, governmental bodies, and others who might be interested in the subject matter.
3. Comments were received from 17 parties.
4. Most of the comments related to matters not germane to the revision of G.O. 157-C.
5. Of the few comments related to a possible revision of G.O. 157-C, most recommendations were widely divergent.

Conclusions of Law

1. This proceeding should be discontinued.
2. This order should be effective today in order to provide certainty as to the disposition of this rulemaking.

O R D E R

IT IS ORDERED that:

1. Rulemaking 02-08-002 shall be discontinued.
2. This matter is closed.

This order is effective today.

Dated _____, at San Francisco, California.